



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

**77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590**

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Kyle Crebar, Sr. Environmental Health and Safety Manager
MetroMetals Northwest, Inc.
Tacoma, Washington
kylec@metrometalsnw.com

Re: Finding of Violation
MetroMetals Northwest, Inc.
All Recycling, Englewood, Colorado and Simon Metals, Tacoma, Washington

Dear Kyle Crebar:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to MetroMetals Northwest, Inc. (you) under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you have violated the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.*, specifically the regulations for the Protection of Stratospheric Ozone at 40 C.F.R. Part 82, Subpart F at your All Recycling Inc., Englewood, Colorado and Simon Metals LLC, Tacoma, Washington facilities.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Laura Neudorf (formerly Laura Steel). You may contact her at (312) 886-0794 or neudorf.laura@epa.gov to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Sarah Marshall
Supervisor, Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure: SBREFA fact sheet

cc: Scott Patefield, Branch Manager
EPA Region 8
patefield.scott@epa.gov

Morgan Jencius, Branch Manager
EPA Region 10
jencius.morgan@epa.gov

1. In accordance with Section 608 of the CAA, 42 U.S.C. § 7671g, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F applicable to recycling and emissions reductions of ozone-depleting substances. As specified at 40 C.F.R. § 82.150(a), the purpose of the regulations is to reduce emissions of class I and class II refrigerants and their non-exempt substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances.
2. Under 40 C.F.R. § 82.152, an appliance is any device which contains and uses a class I or class II substance or substitute as a refrigerant and which is used for household or commercial purposes, including any air conditioner, motor vehicle air conditioner (MVAC), refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.
3. Under 40 C.F.R. § 82.152, an MVAC is an appliance that is a motor vehicle air conditioner as defined in 40 C.F.R. § 82.32(d), which states that MVAC “means mechanical vapor compression refrigeration equipment used to cool the driver's or passenger's compartment of any motor vehicle. This definition is not intended to encompass the hermetically sealed refrigeration systems used on motor vehicles for refrigerated cargo and the air conditioning systems on passenger buses using HCFC-22 refrigerant.”
4. Under 40 C.F.R. § 82.152, an MVAC-like appliance is a mechanical vapor compression, open-drive compressor appliance with a full charge of 20 pounds or less of refrigerant used to cool the driver's or passenger's compartment of off-road vehicles or equipment. This includes, but is not limited to, the air-conditioning equipment found on agricultural or construction vehicles. This definition is not intended to cover appliances using R-22 refrigerant.

5. Under 40 C.F.R. § 82.152, a small appliance is any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners, portable air conditioners, and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.
6. Under 40 C.F.R. § 82.154(a), no person maintaining, servicing, repairing, or disposing of appliances may knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances, with certain exceptions not relevant to this matter.
7. Under 40 C.F.R. § 82.155(a), persons recovering refrigerant from a small appliance, MVAC, or MVAC-like appliance for purposes of disposal of these appliances must evacuate refrigerant to the levels in 40 C.F.R. § 82.155(b) through (d) using recovery equipment that meets the standards in 40 C.F.R. § 82.158(e) through (g), or 40 C.F.R. Part 82 Subpart B, as applicable.
8. Under 40 C.F.R. § 82.155(b), the final processor—i.e., persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, MVAC, or MVAC-like appliance—must either:
 - (1) Recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.155 (a); or
 - (2) Verify using a signed statement or a contract that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a). If using a signed statement, it must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered. If using a signed contract between the supplier and the final processor, it must either state that the supplier will recover any remaining refrigerant from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a) prior to delivery or verify that the refrigerant had been properly recovered prior to receipt by the supplier.¹
9. Under 40 C.F.R. § 82.155(b)(2)(i), it is a violation of 40 C.F.R. Part 82, Subpart F to accept a signed statement or contract if the person receiving the statement or contract knew or had reason to know that the signed statement or contract is false.
10. If the final processor is not recovering the remaining refrigerant from appliances pursuant to 40 C.F.R. § 82.155(b)(1), the final processor must notify suppliers of appliances that refrigerant must be properly recovered in accordance with 40 C.F.R. § 82.155(a) before delivery of the items to the facility pursuant to 40 C.F.R. § 82.155(b)(2)(ii). The form of this notification may be signs, letters to suppliers, or other equivalent means.

¹ In the Preamble to the original rule and in revisions to 40 C.F.R. Part 82 Subpart F, EPA described under what circumstances a contract was appropriate and when a disposer should use a signed statement: “EPA notes here that a contract is appropriate for businesses to streamline transactions in cases where they maintain long-standing business relationships. A contract would be entered into prior to the transaction, such as during the set-up of a customer account, not simultaneously with the transaction. A signed statement is more appropriate for one-off transactions between the supplier and the final processor.” 81 Fed. Reg. 82,272, 82309 (Nov. 18, 2016).

11. Under 40 C.F.R. § 82.155(b)(2)(iii), if all refrigerant has leaked out of the appliance, the final processor must obtain a signed statement that all the refrigerant in the appliance had leaked out prior to delivery to the final processor and recovery is not possible. “Leaked out” in this context means those situations in which the refrigerant has escaped because of system failures, accidents or other unavoidable occurrences not caused by a person’s negligence or deliberate acts such as cutting refrigerant lines.

Factual Background

12. MMNW is the parent owner of two wholly owned subsidiaries, All Recycling Inc. and Simon Metals LLC, which own and operate scrap recycling facilities (Facilities) at 1775 W Wesley Ave., Englewood, CO (All Recycling Facility) and 2202 E River Street, Tacoma, WA (Simon Metals Facility).

Englewood Facility

13. EPA inspected the All Recycling Facility on June 21, 2022.
14. As stated at the time of inspection, the All Recycling Facility accepts from peddlers and commercial suppliers, small appliances and MVACs that contain or once contained refrigerant, for recycling and disposal at the All Recycling Facility and is therefore subject to requirements at 40 C.F.R. Part 82, Subpart F.
15. At the time of the inspection, EPA inspectors observed the All Recycling Facility’s refrigerant recovery process, which All Recycling Facility personnel stated is performed for vehicles and small appliances delivered to the Englewood Facility that contain refrigerant.
16. At the time of the inspection, the All Recycling Facility stated that it accepts scrap that previously contained refrigerant if it had been emptied of all fluids, including appliances with cut or damaged lines, and it rejects intact appliances and A/C units still containing refrigerant unless the supplier pays the facility to recover the refrigerant at the All Recycling Facility.
17. At the All Recycling Facility, EPA inspectors observed at least three small appliances that had been delivered for recycling that had cut refrigeration lines, indicating that refrigerant had not been properly recovered from the appliances.
18. At the time of the inspection, the All Recycling facility had a small sign at the scrap entrance stating, “No refrigerant or CFC’s.”
19. At the time of the inspection, the All Recycling Facility stated that it has a Motor Vehicle, Appliance and Material Supplier Certification agreement with commercial suppliers, and peddlers must fill out a scale ticket before scrap is inspected.
20. In a post-inspection documentation request, the All Recycling Facility provided copies of its scale tickets and Supplier Certification agreement.
21. The All Recycling Facility’s scale tickets do not require the customer to provide the name and address of the person or entity who properly recovered the refrigerant and the date of its recovery, and therefore do not meet the requirements of a signed statement under 40 C.F.R. § 82.155(b)(2).

22. The All Recycling Facility's Supplier Certification agreements do not either state that the supplier will recover any remaining refrigerant from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a) prior to delivery or verify that the refrigerant had been properly recovered prior to receipt by the seller, and therefore do not meet the requirements of a signed contract under 40 C.F.R. § 82.155(b)(2).

Tacoma Facility

23. EPA inspected the Simon Metals Facility on August 26, 2022.
24. As stated at the time of the inspection and in a post-inspection follow-up email sent on September 1, 2022, the Simon Metals Facility accepts small appliances and MVACs from commercial suppliers, that contain or once contained refrigerant, for recycling and disposal at the Simon Metals Facility and is therefore subject to requirements at 40 C.F.R. Part 82, Subpart F.
25. At the time of the inspection, EPA inspectors observed the refrigerant recovery process performed by Rapid Recovery technicians on-site, and Simon Metals Facility personnel showed EPA inspectors a log sheet showing records of refrigerant recovery performed for vehicles and small appliances delivered to the Simon Metals Facility containing refrigerant.
26. At the time of the inspection, the Simon Metals Facility had a sign by the front office that stated that the facility does not accept "Freon / Refrigerant containing material" or "Vehicles with any fluid."
27. In a post inspection documentation request, the Simon Metals Facility provided its Prohibited Items List, which states that the Simon Metals Facility does not accept "[r]efrigerants: all refrigerant must be properly recovered with documentation. We charge \$10 for refrigerators containing refrigerant and \$5 for small appliances containing refrigerant; no ammonia refrigerant accepted."
28. In a post-inspection documentation request, the Simon Metals Facility stated, in response to a request for an example supplier agreement with commercial customers that provide small appliances and motor vehicles, that "MM-Tacoma does not have a supplier agreement with commercial customers that provide small appliance to this location due to the extremely low volume of refrigerant containing devices purchased by MM-Tacoma. All commercial customers are provided with a Prohibited Items List." The Simon Metals Facility also stated, in response to a request for an example of a signed statement from a customer delivering an appliance or vehicle that does not contain refrigerant, that "MM-Tacoma does not have an example of a signed statement from a customer delivering appliances or vehicles stating that they do not contain refrigerant."
29. The Simon Metals Facility did not use a signed statement or contract to verify that refrigerant had been properly recovered from appliances and MVACs delivered to the Simon Metals Facility.

Violations

30. By failing to verify, using a signed statement or contract, that all refrigerant that had not leaked previously had been recovered from an appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(b)(1), MMNW's All Recycling Facility violated 40 C.F.R. § 82.155(b)(2).
31. By accepting appliances with cut refrigerant lines, MMNW's All Recycling Facility violated 40 C.F.R. § 82.155(b)(2).
32. By failing to verify, using a signed statement or contract, that all refrigerant that had not leaked previously had been recovered from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(b)(1), MMNW's Simon Metals Facility violated 40 C.F.R. § 82.155(b)(2).

Environmental Impact of Violations

33. These violations caused emissions of ozone depleting substances, including chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs), which deplete the stratospheric ozone layer. The stratospheric ozone layer protects life on Earth from the sun's harmful ultraviolet radiation (UV). UV radiation has been associated with adverse health effects, including skin cancer, cataracts and immune suppression. UV radiation may also have adverse effects on plant life and aquatic ecosystems.
34. These violations also caused emissions of substitute refrigerants, including hydrofluorocarbons (HFCs). CFCs, HCFCs, and HFCs have high global warming potentials and contribute to warming of the earth's atmospheric and global climate change.

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division